

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

GREGORY P. EATMON, *et al.*,
Appellants,

v.

DEPARTMENT OF ENERGY,
Agency.

OFFICE OF PERSONNEL MANAGEMENT,
Intervenor.

DOCKET NUMBER
DE-0842-96-0551-I-1¹

DATE: JUL 14, 1998

Jeff Blackburn, Esquire, and Christina Mitchell-Tomasini, Esquire, Amarillo, Texas, for the appellants.

Pamela Arias-Ortega, Esquire, and Ronald O'Dowd, Esquire, Albuquerque, New Mexico, for the agency.

Lorraine Lewis, Esquire, Murray Meeker, Esquire, and James S. Green, Esquire, Washington, D.C., for the intervenor.

BEFORE

Ben L. Erdreich, Chairman
Beth S. Slavet, Vice Chair
Susanne T. Marshall, Member

¹ This appeal is consolidated with the appeals of 237 other appellants. A list of the appellants' names and corresponding docket numbers is set out in the Appendix to this decision.

OPINION AND ORDER

¶1 The Office of Personnel Management (OPM) petitions for review of the September 29, 1997 initial decision that awarded law enforcement officer retirement coverage to the appellants. For the reasons set forth below, we GRANT the petition for review, REVERSE the initial decision, and AFFIRM OPM's determination, as communicated to the appellants by the Department of Energy, that the appellants are not entitled to law enforcement officer retirement coverage.

BACKGROUND

¶2 Each of the 238 appellants in these consolidated appeals is employed by the Department of Energy (DoE), and holds either a Nuclear Materials Courier position or a Transportation Escort position. Approximately 40% of the appellants are covered by the Civil Service Retirement System (CSRS); the remaining appellants are covered by the Federal Employees' Retirement System (FERS). The Secretary of Energy, acting under a delegation of authority from OPM, granted law enforcement officer (LEO) retirement coverage to all Couriers and Escorts. Initial Appeal File (IAF) (Eatmon), Tab 10, Att. F; 5 C.F.R. §§ 831.901(b), 842.801(b). OPM had reserved the power to "revoke" LEO coverage determinations made by agency heads under the aforementioned delegation of authority, however. *See* 5 C.F.R. §§ 831.911(a), 842.808(a). Exercising this reserved power, OPM revoked the Secretary's decision to grant LEO coverage to DoE Couriers and Escorts. IAF, Tab 10, Att. D; *see* 5 C.F.R. §§ 831.903, 831.905, 831.911(a), 842.803, 842.804, 842.808(a).

¶3 The appellants filed these appeals upon receiving notification of OPM's decision from DoE. The administrative judge (AJ) consolidated the appeals of individuals covered by CSRS into one group and the appeals of individuals covered by FERS into another group. *See* IAF (Anderson), Tab 5; IAF (Eatmon), Tab 8. DoE was named the respondent agency, and OPM intervened to defend its

decision because DoE did not oppose granting LEO coverage to the appellants. IAF (Eatmon), Tab 12. The appellants waived their right to a hearing. IAF (Eatmon), Tab 20. After affording the parties an opportunity to submit affidavits, deposition transcripts, and other documentary evidence, the AJ issued an initial decision covering both groups that reversed OPM's determination and awarded LEO retirement coverage to the appellants.

¶4 The AJ found that the appeals are within the Board's jurisdiction and were timely filed. On the merits, the AJ found that the appellants' duties fit four of the six "indicia" of LEO status recognized in caselaw. He further found that, despite the fact that the appellants rarely used their authority to investigate, apprehend, or detain criminals or suspected criminals, they were entitled to LEO retirement coverage because their primary duties involved LEO-based training and skills. The AJ did not order interim relief. IAF (Eatmon), Tab 35.

¶5 OPM argues in its timely petition for review that the appellants are not entitled to LEO retirement coverage because their primary duty is protection of property, whereas the relevant statutes limit LEO retirement coverage to those engaged in investigation, apprehension, or detention of individuals suspected or convicted of violating federal criminal law. According to OPM, meeting four of the six indicia of LEO status recognized in the caselaw does not by itself establish a right to LEO retirement coverage. The appellants have not responded to OPM's petition.

ANALYSIS

LEO retirement coverage under both CSRS and FERS can only be conferred on an employee whose duties are "primarily" "the investigation, apprehension, or detention of individuals suspected or convicted" of violating federal criminal law.

¶6 Under both CSRS and FERS, an employee in an LEO position becomes eligible for an annuity at a younger age, with fewer years of service, and that is computed at a higher rate, than an employee in a non-LEO position. *See* 5 U.S.C. §§ 8336(c), 8339(a), (d), 8412(d), (e), 8415(d). An employee in an LEO position

is subject to mandatory retirement "on the last day of the month in which [he or she] becomes 57 years of age or completes 20 years of service if then over that age." 5 U.S.C. §§ 8335(b), 8425(b).

¶7 "Law enforcement officer," for purposes of the CSRS, means:

an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

5 U.S.C. § 8331(20).

¶8 "Law enforcement officer," for purposes of FERS, means:

an employee, the duties of whose position (i) are primarily -- (I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or (II) the protection of officials of the United States against threats to personal safety; and (ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by [OPM] considering the recommendations of the employing agency.

5 U.S.C. § 8401(17)(A).

¶9 Although the CSRS and FERS definitions of "law enforcement officer" differ somewhat, the cases at issue turn on the common element of whether the appellants' duties are "primarily" "the investigation, apprehension, or detention of individuals suspected or convicted" of violating federal criminal law. 5 U.S.C. §§ 8331(20), 8401(17)(A).² See *Bingaman v. Department of the Treasury*, 127 F.3d 1431, 1433-40 (Fed. Cir. 1997) (applying both the CSRS and FERS definitions of "law enforcement officer").

² The difference between the CSRS and FERS definitions of "law enforcement officer" could be relevant if any of the appellants claimed that their duties involved "the protection of officials of the United States against threats to personal safety," 5 U.S.C. § 8401(17)(A)(i)(II), but none of the appellants so claims.

¶10 DoE produces nuclear materials, atomic weapons, and atomic weapon components, which it then delivers to the military "for such use as [the President] deems necessary in the interest of national defense." 42 U.S.C. § 2121(b); *see* IAF (Eatmon), Tab 19, Ex. K. Couriers and Escorts transport these materials, weapons, and weapon components from DoE facilities to military facilities. Above all else, Couriers and Escorts must safeguard their cargo from accidents that could threaten the public, from terrorists who may want to steal it, from spies who may want to photograph or examine it, and from any other person or force that could delay, divert, or in any way interfere with a shipment. Escorts do not transport "full weapons systems," but the duties of Couriers and Escorts are otherwise the same. *See generally* IAF (Eatmon), Tab 18, Exs. A, C, D; Tab 36 (Miller deposition; Bagley deposition; Davis deposition at 5).³

¶11 Couriers and Escorts must be in good health. They must meet minimum vision and hearing standards, and cannot have chronic cardiovascular disease, chronic respiratory disease, psychiatric or nervous disorders, or orthopedic conditions. Periodically they must pass a physical fitness battery; the battery is more demanding for Couriers than for Escorts, but an incumbent of either position has to maintain a minimum level of physical fitness. *See* IAF (Eatmon), Ex. C, Ex. D at 8; Tab 36 (Davis deposition at 5, 28-29).

³ OPM's CSRS and FERS regulations state that an "agency head's determination that a position is [an LEO] position must be based solely on the official position description of the position in question, and any other official description of duties and qualifications." 5 C.F.R. §§ 831.905(a), 842.804(a). When OPM reviewed DoE's determination that the positions at issue were LEO covered, it went beyond the position descriptions by sending two of its employees to the appellants' work site "to observe first-hand the duties of nuclear couriers." IAF (Eatmon), Tab 31. In its submissions below, OPM also relied on deposition testimony concerning what duties the appellants actually perform. *See id.*, Tab 33. When the Board reviews appeals concerning denial of LEO credit, it will examine all relevant evidence showing what duties an appellant performs. *See, e.g., Ferrier v. Office of Personnel Management*, 66 M.S.P.R. 241 (1995); *Hobbs v. Office of Personnel Management*, 58 M.S.P.R. 628 (1993).

¶12 Couriers and Escorts receive extensive training in such things as the use of force to subdue others, handcuffing and searching techniques, crowd control, weapon takeaways, defensive driving, interviewing techniques, firearm safety, surveillance techniques, dealing with hostage-takers, and handling prisoners. IAF (Eatmon), Tab 18 (stipulation 31), Exs. E, F. Couriers and Escorts must have knowledge of the Atomic Energy Act and "related criminal statutes," skill in collecting and recording evidence, and the ability to "identify criminal activity." *Id.*, Ex. D at 6-7.

¶13 Couriers and Escorts transport cargo in unmarked vehicles in "low-profile convoy configuration." IAF (Eatmon), Tab 18 (stipulation 20). While moving shipments they must remain awake and alert for long periods. Couriers and Escorts carry firearms and federal credentials. When they believe that the security of a shipment is in jeopardy they are authorized to detain individuals for questioning and to make arrests, to search vehicles and persons, and to use force commensurate with the situation, including deadly force. *Id.* (stipulation 19), Ex. B, Ex. D at 4.

¶14 James Bagley supervises a unit of 30 Couriers and Escorts. Bagley deposition at 17.⁴ Bagley explained that Couriers and Escorts must be "suspicious of everyone" they encounter when moving a shipment. Anything unusual "could be a pre-attack indicator," so Couriers and Escorts must make a "comprehensive observation" of an area when they stop. *Id.* at 12, 22. Although Couriers and Escorts must "assum[e] the worst" about anyone who acts strangely around cargo, such persons are not suspected of violating federal criminal law. *Id.* at 23, 39. In the 12-month period preceding his deposition, Bagley's unit reported two crimes, searched one person, and apprehended one person. *Id.* at 6, 28-29, 40, 47.

⁴ Bagley's deposition, as well as the three other depositions referred to below, are at IAF (Eatmon), Tab 36.

¶15 Gregory Eatmon, a Courier, testified that in the 12-month period preceding his deposition he had not collected any evidence of a crime or a suspected crime, had not arrested anyone suspected of violating federal criminal law, and had not interrogated anyone suspected of violating federal criminal law. Eatmon deposition at 5, 29, 31. Eatmon's activities are "typical" of Couriers. *Id.* at 4.

¶16 Nicholas Davis, an Escort, testified that he had not arrested anyone in the 12-month period preceding his deposition. Davis deposition at 8, 22. Davis further testified that, although he must be suspicious of anyone who approaches a transport vehicle, he had "detained" just one such person for questioning in the 12-month period preceding his deposition. *Id.* at 22.

¶17 Debbie Miller, Director of DoE's Transportation Safeguards Division, testified that she did not know of any instance in the 12-month period preceding her deposition that Couriers or Escorts had arrested a person suspected of violating federal criminal law. Miller deposition at 43-44. She also knew of no instance in that same period in which Couriers or Escorts were involved in establishing or protecting a crime scene. *Id.* at 49. Further, she knew of no instance in that period in which Couriers or Escorts had developed information or evidence for later use in a follow-up investigation or a judicial proceeding involving a violation of federal criminal law. *Id.* After her deposition, Miller searched her records and was unable to locate any "unusual activity trip reports" in which Couriers or Escorts had reported suspected violations of federal criminal law. IAF (Eatmon), Tab 32 at 41.

The appellants are not entitled to LEO retirement coverage because they are not engaged "primarily" in the "investigation, apprehension, or detention of individuals suspected or convicted" of violating federal criminal law.

¶18 The AJ, in concluding that the appellants are entitled to LEO retirement coverage, relied heavily on *Bingaman v. Department of the Treasury*, 127 F.3d

1431 (Fed. Cir. 1997). There, the court summarized the "indicia" of LEO status that have emerged from the caselaw:

Without holding any single factor to be essential or dispositive, the Board has identified several considerations that bear on the question whether a particular employee qualifies as a "law enforcement officer" for purposes of entitlement to LEO retirement credit. According to the Board, a "law enforcement officer" within the statutory contemplation commonly (1) has frequent direct contact with criminal suspects; (2) is authorized to carry a firearm; (3) interrogates witnesses and suspects, giving *Miranda* warnings when appropriate; (4) works for long periods without a break; (5) is on call 24 hours a day; and (6) is required to maintain a level of physical fitness. *See Hobbs v. Office of Personnel Management*, 58 M.S.P.R. 628 (1993); *Sauser v. Office of Personnel Management*, 59 M.S.P.R. 489 (1993); *Peek v. Office of Personnel Management*, 63 M.S.P.R. 430 (1994), *aff'd*, 59 F.3d 181 (Fed. Cir. 1995) (Table); *Ferrier v. Office of Personnel Management*, 66 M.S.P.R. 241 (1995).

127 F.3d at 1436.

¶19 The AJ found support in the record showing that the appellants are authorized to carry firearms, work for long periods without breaks, are on call 24 hours a day (at least when moving shipments), and must be physically fit. OPM argues that meeting most of the *Bingaman* factors is not enough to earn LEO retirement coverage, and that the real question is whether the appellants primarily investigate, apprehend, or detain individuals suspected or convicted of violating federal criminal law. 5 U.S.C. §§ 8331(20), 8401(17)(A). According to OPM, the appellants should not receive LEO retirement coverage because they do not meet the basic statutory criteria. We agree. Based on the facts recounted above, which are not in dispute, the appellants virtually never investigate, apprehend, or detain "individuals suspected or convicted" of violating federal criminal law. 5 U.S.C. §§ 8331(20), 8401(17)(A).

¶20 The appellants hardly ever apprehend anyone, as detailed above. They also do not detain anyone, at least not as that term is apparently contemplated in the statutes, namely, maintaining custody of incarcerated individuals. *See* 5 C.F.R.

§§ 831.902, 842.802; *Burrell v. Office of Personnel Management*, 36 M.S.P.R. 113, *aff'd*, 862 F.2d 320 (Fed. Cir. 1988) (Table). Even assuming (which we do solely for purposes of this decision) that the term "detention" in the statutes is not limited to incarcerated individuals, the appellants almost never detain anyone suspected or convicted of violating federal criminal law. When Couriers and Escorts question people who approach DoE cargo, they are determining whether there are any threats to the cargo; they do not perform these activities because they suspect that a federal crime has been committed. As stated by Bagley, although Couriers and Escorts treat everyone they encounter as posing a potential threat to DoE cargo, such persons are not suspected of having violated federal criminal law. Bagley deposition at 23, 29.

¶21 Some of the appellants' activities while they are moving shipments, such as inspecting areas where convoys may stop or running computer checks on license plate numbers, could be considered "investigation" in the generic sense of "observ[ation] or study by close examination and systematic inquiry." *Hobbs v. Office of Personnel Management*, 58 M.S.P.R. 628, 632 n.2 (1993). To earn LEO retirement coverage, however, an employee must either investigate "suspected or known criminals for the immediate purpose of criminal[] prosecuti[on] ... if warranted," *see id.* at 633, or investigate crimes, whether or not a suspect has been identified, *Taylor v. Department of the Treasury*, 72 M.S.P.R. 327, 330 (1996), *review denied*, 106 F.3d 427 (Fed. Cir. 1997) (Table). The appellants in these appeals do neither. Nearly all of the people they encounter in their work are not suspected of having committed a crime, and nearly all of the situations in which they find themselves do not present any indication that a crime has been committed. Any involvement the appellants may have with crime, criminals, or criminal suspects is occasional and incidental, not a primary aspect of what they do. *See* 5 C.F.R. §§ 831.902, 842.802 (duties of an "emergency" or "incidental" nature are not considered "primary" for purposes of LEO retirement coverage);

Department of State v. Office of Personnel Management, 29 M.S.P.R. 83, 85 (1985) (duties of investigation and apprehension of individuals suspected of violating federal criminal law, performed only "occasionally and incidentally," could not be considered "primary" duties for CSRS LEO retirement coverage purposes); *see also Killion v. Department of the Treasury*, MSPB Docket No. BN-0831-96-0006-I-1, slip op. at 7 (Sept. 18, 1996) (the appellant was not entitled to LEO retirement coverage because, *inter alia*, any danger he faced as a result of contact with suspected criminals was "fleeting and incidental").

¶22 OPM is correct that the appellants fall squarely within the terms of its regulations interpreting 5 U.S.C. §§ 8331(20) & 8401(17). Those regulations provide that LEO retirement coverage will not be granted to employees whose primary duties are protection of life or property, guarding against or inspecting for violations of law, or investigating persons other than those suspected of violating federal criminal law. 5 C.F.R. §§ 831.902, 842.802. The appellants were right in arguing before the AJ that these regulations cannot operate to deny LEO retirement coverage to individuals who otherwise meet the statutory requirements, *see Ferrier v. Office of Personnel Management*, 66 M.S.P.R. 241, 250 (1995), but the appellants have not shown that they do meet those basic statutory requirements. *See* 5 C.F.R. § 1201.56(a)(2) (an appellant bears the burden of proving entitlement to the retirement benefits sought).

¶23 Without question the work the appellants perform is important, but this fact alone is not enough to confer LEO retirement coverage. *Bingaman*, 127 F.3d at 1435. Further, the fact that the appellants regularly "use ... LEO-based skills," IAF (Eatmon), Tab 35 (initial decision at 8), is insufficient to establish a right to LEO retirement coverage when the basic statutory requirements are not met. *Cf. Carew v. Office of Personnel Management*, 878 F.2d 366, 368 (Fed. Cir. 1989). Considering their mission, we do not disagree with the appellants' argument to the AJ that Couriers and Escorts should be "youthful" and "capable of meeting ...

stringent physical requirements and performing at peak efficiency." *Hobbs*, 58 M.S.P.R. at 632. Nevertheless, the applicable statutes are "not [to be] given expansive application," but instead must be "strictly construed." *Bingaman*, 127 F.3d at 1435 (citations omitted). We cannot award LEO retirement coverage to the appellants on the ground that it would be reasonable for them to retire earlier than non-LEO personnel, when they do not meet the fundamental statutory requirement that they be primarily engaged in "investigation, apprehension, or detention of individuals suspected or convicted" of violating federal criminal law. 5 U.S.C. §§ 8331(20), 8401(17)(A).

ORDER

¶24 The initial decision is REVERSED. OPM's decision to deny LEO retirement coverage to Couriers and Escorts, as communicated to the appellants by the Department of Energy, is AFFIRMED. This is the final order of the Merit Systems Protection Board in this appeal. 5 C.F.R. § 1201.113(c).

NOTICE TO THE APPELLANTS REGARDING FURTHER REVIEW RIGHTS

You have the right to request the United States Court of Appeals for the Federal Circuit to review the Board's final decision in your appeal if the court has jurisdiction. *See* 5 U.S.C. § 7703(a)(1). You must submit your request to the court at the following address:

United States Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

The court must receive your request for review no later than 30 calendar days after receipt of this order by your representative, if you have one, or receipt by you personally, whichever receipt occurs first. *See* 5 U.S.C. § 7703(b)(1).

FOR THE BOARD:

Robert E. Taylor
Clerk of the Board

Washington, D.C.

APPENDIX

Gregory P. Eatmon, et al., v. Department of Energy
Docket Number DE-0842-96-0551-I-1

APPELLANTS COVERED BY CSRS

ANDERSON	FLOYD W	DE-0831-97-0015-I-1
ARMENDARIZ	JULIAN C	DE-0831-97-0016-I-1
AYALA	JOE G	DE-0831-97-0017-I-1
BACA	PHILLIP R	DE-0831-97-0019-I-1
BACON	STEPHEN	DE-0831-97-0020-I-1
BEST	BEN	DE-0831-97-0022-I-1
BLEVINS	JACK R	DE-0831-97-0023-I-1
BOHENSKY	JOSEPH M	DE-0831-97-0024-I-1
BOWERS	FLOYD J, JR.	DE-0831-97-0027-I-1
BROWN	DWIGHT A	DE-0831-97-0028-I-1
BURTON	AMOS H	DE-0831-97-0029-I-1
CAMPOS	JOHN F	DE-0831-97-0030-I-1
CARDWELL	JAMES H	DE-0831-97-0031-I-1
CHAVEZ	MICHAEL A	DE-0831-97-0032-I-1
CHRISTENSEN	RONALD L	DE-0831-97-0033-I-1
CISCO	JOHN E	DE-0831-97-0034-I-1
CLINE	BOBBY R	DE-0831-97-0035-I-1
COBBLE	HOWARD K, JR.	DE-0831-97-0036-I-1
DALTON	HERMINO J	DE-0831-97-0037-I-1
DALTON	RICHARD R	DE-0831-97-0038-I-1
DAVIS	GARY S	DE-0831-97-0039-I-1
DAVIS	KIM E	DE-0831-97-0040-I-1
DIXON	LEOTIS	DE-0831-97-0041-I-1
DOMINGUEZ	DANIEL E	DE-0831-97-0043-I-1
DONALDSON	CLIFTON	DE-0831-97-0044-I-1
ESTES	RANDALL L	DE-0831-97-0045-I-1
EWANOWSKI	JOSEPH S	DE-0831-97-0046-I-1
FREEMAN	GARY L	DE-0831-97-0047-I-1
GRAY	JAMES S	DE-0831-97-0048-I-1
GRIEGO	LEO	DE-0831-97-0049-I-1
HADAWAY	JIMMY O	DE-0831-97-0050-I-1
HASHBARGER	DAVID C	DE-0831-97-0053-I-1

HATCHELL	ROBERT H	DE-0831-97-0054-I-1
HEMBREE	CHARLES	DE-0831-97-0055-I-1
HUTCHERSON	JOE P	DE-0831-97-0056-I-1
JOHNSON	CRAIG M	DE-0831-97-0057-I-1
JORDAN	MICHAEL B	DE-0831-97-0058-I-1
LAWLER	GEORGE W	DE-0831-97-0059-I-1
LEAVERTON	JERRY D	DE-0831-97-0060-I-1
LONG	BENNIE C	DE-0831-97-0061-I-1
LOPEZ	JESS R	DE-0831-97-0062-I-1
LOPEZ	STEVE	DE-0831-97-0063-I-1
MANZANARES	JOSEPH E	DE-0831-97-0064-I-1
MARINO	THOMAS P	DE-0831-97-0065-I-1
MARTINEZ	GEORGE R	DE-0831-97-0295-I-1
MC ELROY	MARVIN	DE-0831-97-0066-I-1
MINTER	JAMES E	DE-0831-97-0067-I-1
MOIST	TERRY L	DE-0831-97-0068-I-1
MOWERY	ROBERT N	DE-0831-97-0069-I-1
PATE	LEO M	DE-0831-97-0070-I-1
PAYNE	CHARLES A	DE-0831-97-0071-I-1
PERRY	ROBERT W	DE-0831-97-0072-I-1
POE	EARL K	DE-0831-97-0073-I-1
REED	HOWARD K	DE-0831-97-0074-I-1
RILEY	JAMES C	DE-0831-97-0075-I-1
RIOS	ROBERTO M	DE-0831-97-0076-I-1
ROBERTS	FARMER L	DE-0831-97-0077-I-1
ROBERTS	JACKIE D	DE-0831-97-0078-I-1
ROMERO	THOMAS D	DE-0831-97-0079-I-1
ROPER	JAMES H	DE-0831-97-0080-I-1
SCHOONOVER	OLIN R	DE-0831-97-0081-I-1
SEESE	THOMAS E, JR.	DE-0831-97-0082-I-1
SENA	JOHN M	DE-0831-97-0083-I-1
SHANNON	DAVID M	DE-0831-97-0294-I-1
SHARP	STEVE T	DE-0831-97-0084-I-1
SHARP	TROY L	DE-0831-97-0085-I-1
STAGES	LARRY	DE-0831-97-0086-I-1
STALLINGS	RANDY	DE-0831-97-0087-I-1
STOUT	MARION	DE-0831-97-0088-I-1
THORNBURG	EDWARD L	DE-0831-97-0089-I-1
TILLMAN	CLAUD J	DE-0831-97-0090-I-1
TRUJILLO	BERNARD	DE-0831-97-0091-I-1
TRUJILLO	JOE L	DE-0831-97-0092-I-1
TUDOR	LARRY D	DE-0831-97-0094-I-1

TYE	BERNARD J	DE-0831-97-0093-I-1
WEBSTER	DAVID K	DE-0831-97-0095-I-1
WEINGARTEN	ROBERT	DE-0831-97-0096-I-1
WORTHINGTON	THOMAS H	DE-0831-97-0097-I-1
YOUNG	RICHARD E, JR	DE-0831-97-0098-I-1
ZAMORA	DAVID	DE-0831-97-0100-I-1
ZUCK	STEPHEN W	DE-0831-97-0099-I-1

APPELLANTS COVERED BY FERS

ALANIS	JUAN J	DE-0842-97-0102-I-1
ALVAREZ	ARNOLDO A	DE-0842-97-0103-I-1
ANGEL	TERRY J	DE-0842-97-0104-I-1
ARBUCKLE	JAMES	DE-0842-97-0105-I-1
ARCO	BRUCE	DE-0842-97-0106-I-1
BACA	KENNETH A	DE-0842-97-0107-I-1
BACA	PAUL	DE-0842-97-0108-I-1
BAGLEY	JAMES K	DE-0842-97-0109-I-1
BALLEW	FRED K, JR	DE-0842-97-0111-I-1
BARNARD	THOMAS J	DE-0842-97-0112-I-1
BAUER	RANDY S	DE-0842-97-0113-I-1
BEATTIE	EZRA A	DE-0842-97-0114-I-1
BEAUFORD	DENNIS	DE-0842-97-0115-I-1
BERKEDAL	KENT B	DE-0842-97-0116-I-1
BLANK	JEFFERY A	DE-0842-97-0117-I-1
BOND	CHARLES S	DE-0842-97-0118-I-1
BRESLIN	JOSEPH P	DE-0842-97-0119-I-1
BUIE	WAYNE R	DE-0842-97-0120-I-1
BURNS	LEMUEL R	DE-0842-97-0121-I-1
BURRIS	DAVID L	DE-0842-97-0122-I-1
BURRIS	LARRY B	DE-0842-97-0123-I-1
CADMUS	RANDALL	DE-0842-97-0124-I-1
CARR	JOHN A	DE-0842-97-0125-I-1
CASTILLO del MURO	LAWRENCE W	DE-0842-97-0126-I-1
CATE	ROBERT P	DE-0842-97-0127-I-1
CHAVEZ	ANTHONY T	DE-0842-97-0128-I-1
CHAVEZ, JR	EDUARDO V	DE-0842-97-0129-I-1
CLAYBAUGH	SCOTT	DE-0842-97-0130-I-1
COCHRAN	BRUCE D	DE-0842-97-0131-I-1
COLON	DAVID A	DE-0842-97-0132-I-1
CONLEY	MARTIN W	DE-0842-97-0133-I-1
CONNERS	SEAN M	DE-0842-97-0134-I-1

COOPER	WILLIAM A	DE-0842-97-0135-I-1
DAVIS	NICHOLAS P	DE-0842-97-0290-I-1
DEAN	TOM G	DE-0842-97-0136-I-1
DELOACH	JOHN	DE-0842-97-0137-I-1
DIAZ	LUIS G	DE-0842-97-0139-I-1
FERGUSON III	SPENCER F,	DE-0842-97-0140-I-1
FINLEY	BOBBY R	DE-0842-97-0141-I-1
FRANKS	DAVID K	DE-0842-97-0142-I-1
FRAZIER	DENNIS	DE-0842-97-0143-I-1
FRITZ	MARK W	DE-0842-97-0144-I-1
FROST	DAVID	DE-0842-97-0145-I-1
GARCIA	GEORGE L	DE-0842-97-0146-I-1
GARRISON	JAMES R	DE-0842-97-0147-I-1
GILES	SAMUEL L	DE-0842-97-0296-I-1
GONZALES	LEROY L	DE-0842-97-0149-I-1
GONZALEZ	JOSE G	DE-0842-97-0148-I-1
GONZALEZ	NICANOR	DE-0842-97-0287-I-1
GUHL	ROBERT H	DE-0842-97-0150-I-1
GUNTER	ANTHONY P	DE-0842-97-0151-I-1
HANSON	DELBERT W	DE-0842-97-0152-I-1
HARRIS	ALVIN A	DE-0842-97-0153-I-1
HARRIS	WILLIAM D	DE-0842-97-0154-I-1
HELLER	ROBERT M	DE-0842-97-0155-I-1
HENRY	DAVID K	DE-0842-97-0156-I-1
HILL	BERNEY R	DE-0842-97-0157-I-1
HILL	DANNY L	DE-0842-97-0159-I-1
HILL	SAM W	DE-0842-97-0160-I-1
HOCKMAN	CHRISTOPHER	DE-0842-97-0161-I-1
HODGE	CRAIG M	DE-0842-97-0162-I-1
HUCKLES	MICHAEL E	DE-0842-97-0164-I-1
HUNSAKER	ELZARUS L	DE-0842-97-0165-I-1
HURLEY	KEVIN J	DE-0842-97-0166-I-1
ISODOR	WILFRED P	DE-0842-97-0167-I-1
KRALLMAN	KEVIN P	DE-0842-97-0168-I-1
KRUGER	RUSSELL W	DE-0842-97-0169-I-1
LAKE	RONALD L	DE-0842-97-0170-I-1
LAND	JEFFERY W	DE-0842-97-0171-I-1
LAYCOCK	HARRY G	DE-0842-97-0172-I-1
LEYBA	LEE J, JR.	DE-0842-97-0173-I-1
LIMBAUGH	CHRISTOPHER W	DE-0842-97-0174-I-1
LITZ, SR	GREGORY V.	DE-0842-97-0175-I-1
LLOYD	TERRY	DE-0842-97-0176-I-1

LOPER	PATRICK A	DE-0842-96-0270-I-1
LOVE	HENRY M	DE-0842-97-0177-I-1
LUCERO	ROLAND G	DE-0842-97-0178-I-1
LUNA	ALBERTO	DE-0842-97-0179-I-1
MATHIS	BLAKE A	DE-0842-97-0186-I-1
MATICHAK	DAVID A	DE-0842-97-0187-I-1
MCBEE	CHARLES A	DE-0842-97-0180-I-1
MCCONNELL	DARYL W	DE-0842-97-0181-I-1
MCFARLAND	ROBERT E	DE-0842-97-0182-I-1
MCGUIRE	DANNY E	DE-0842-97-0183-I-1
MCINTYRE	THOMAS J	DE-0842-97-0184-I-1
MCKAY	HARRY S	DE-0842-97-0185-I-1
MECCA	ANTHONY M	DE-0842-97-0188-I-1
MILLER	DALE A	DE-0842-97-0189-I-1
MITTLESTAT	MARVIN W	DE-0842-97-0190-I-1
MOFFIT	THOMAS W	DE-0842-97-0191-I-1
MOORE	WALTER R	DE-0842-97-0192-I-1
MORALES	EMMANUEL B	DE-0842-97-0193-I-1
MORGAN III	JOHN M	DE-0842-97-0194-I-1
MORGAN	WILLIAM A	DE-0842-97-0195-I-1
NORLANDER	MICHAEL R	DE-0842-97-0198-I-1
NUNES	JACK	DE-0842-97-0199-I-1
ORTEGA	ROBERT	DE-0842-97-0201-I-1
OTERO	MARTIN C	DE-0842-97-0202-I-1
OUELLETTE	DARRYL A	DE-0842-97-0298-I-1
PADILLA	MARK S	DE-0842-97-0203-I-1
PARSONS	ROBERT L	DE-0842-97-0204-I-1
PARTON	JAMES	DE-0842-97-0205-I-1
PERRILL	ROBERTO	DE-0842-97-0206-I-1
PITTMAN	ROBERT	DE-0842-97-0207-I-1
PRESHONG	STEVEN M	DE-0842-97-0208-I-1
PRUETT	BILLY J	DE-0842-97-0209-I-1
RENFRO	SIDNEY L	DE-0842-97-0210-I-1
ROBERSON	JAMES L	DE-0842-97-0211-I-1
ROBERTS	FRED M	DE-0842-97-0212-I-1
ROMERO	JOHNNY	DE-0842-97-0213-I-1
ROMERO	REUBEN P	DE-0842-97-0214-I-1
ROMERO	RUBERT	DE-0842-97-0215-I-1
ROMWALTER	MARK A	DE-0842-97-0216-I-1
ROSE	LARRY M	DE-0842-97-0217-I-1
SANDERSON	WILLIAM T	DE-0842-97-0218-I-1
SANTANA	REYNALDO	DE-0842-97-0219-I-1

SAWYER	KEVIN L	DE-0842-97-0220-I-1
SCHATZINGER	THOMAS	DE-0842-97-0221-I-1
SCHULTZ	GARRETT A	DE-0842-97-0222-I-1
SHACKLEFORD	ELIJAH T	DE-0842-97-0268-I-1
SHIELDS	DAVID W	DE-0842-97-0223-I-1
SIMS, JR	ROY C	DE-0842-97-0224-I-1
SIZEMORE	JOE A	DE-0842-97-0225-I-1
SMITH	DAVID A	DE-0842-97-0226-I-1
SMITH	DWAYNE L	DE-0842-97-0227-I-1
SMITH	GARY D	DE-0842-97-0228-I-1
SOTO	HENRY	DE-0842-97-0229-I-1
SPENCE, JR.	JAMES T	DE-0842-97-0230-I-1
SPENCER	JIMMY D	DE-0842-97-0231-I-1
SPREITLER	GERALD P	DE-0842-97-0232-I-1
SPURLOCK	RONALD	DE-0842-97-0233-I-1
STEPHENS	JAMES F	DE-0842-97-0234-I-1
STOUT	RORY E	DE-0842-97-0235-I-1
STROHSCHIEIN	RICKY A	DE-0842-97-0236-I-1
SULLIVAN	EDWARD J	DE-0842-97-0238-I-1
SYKES	TIM	DE-0842-97-0239-I-1
TALLEN, JR	GEORGE W	DE-0842-97-0241-I-1
TAYLOR	ROBERT B	DE-0842-97-0242-I-1
THATCHER	RONALD P	DE-0842-97-0244-I-1
TOMLINSON	KELLY	DE-0842-97-0245-I-1
TURNER	DAVID A	DE-0842-97-0269-I-1
VERBEKE	ERIC B	DE-0842-97-0246-I-1
VUKOSOVICH	JOHN R	DE-0842-97-0247-I-1
WARNER	ALLAN L	DE-0842-97-0248-I-1
WATTS	JOHN M	DE-0842-97-0249-I-1
WELDON	STEVEN T	DE-0842-97-0250-I-1
WEST	WILLIAM A	DE-0842-97-0251-I-1
WHITE	DAVID M	DE-0842-97-0252-I-1
WILLIAMS	CHARLES M	DE-0842-97-0253-I-1
WILLMOTT	KENNETH B	DE-0842-97-0288-I-1
WILMER	WILLIAM J	DE-0842-97-0297-I-1
WILSON	ERIC L	DE-0842-97-0254-I-1
WOODWARD	MARK L	DE-0842-97-0255-I-1
WRIGHT	ROGER G	DE-0842-97-0256-I-1
ZAMORA	JOHN E	DE-0842-97-0257-I-1